IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1279 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HANIFBHAI NURMAHAMMADBHAI CHHUTANI - Petitioner(s)

Versus

MAMLATDAR & EXECUTIVE MAGISTRATE & 4 - Respondent(s)

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Appearance :

MR ASHOK YAGNIK for Petitioner(s) : 1,
None for Respondent(s) : 1,3 - 5.
GOVERNMENT PLEADER for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 30/01/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction and/or order directing the

respondent Nos.1 and 2 i.e. Mamlatdar and Executive Magistrate, Taluka Jetpur, District Rajkot and Police Inspector, Jetpur Police Station, Jetpur, District Rajkot not to grant any permission on any occasion of Muslim religious festivals for using Microphone Loudspeaker at the time of Namaz at Masjids at jetpur, District Rajkot without prior permission of the concerned judicial authority.

2. It appears from the record that there is some dispute amongst the members of one community and as such there is no permission granted by the respondent Nos.1 and 2 and it is the contention on behalf of the petitioner that there is consent decree and therefore, the respondent Nos.1 and 2 cannot grant any permission. It is required to be noted that so far as the respondent Nos.1 and 2 are concerned, they are required to consider the application in accordance with law and on merits and even considering the judicial order. It is the contention on behalf of the petitioner that inspite of consent decree, the private respondents are using the Microphone Loudspeaker at the time of Namaz and have committed the breach of the consent decree. If there is breach of consent decree as alleged by the

petitioner, then in that case, the appropriate remedy of the petitioner is to approach appropriate forum and/or the petitioner may go for execution of the consent decree and/or for breach of the consent decree for which the petition under Article 226 of the Constitution of India is not maintainable.

3. Under the circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed and is, accordingly, dismissed.

(M.R.SHAH, J.)

kdc.